

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1130 of 1997

in

SPECIAL CIVIL APPLICATION No 7660 of 1995

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI

and

Hon'ble MR.JUSTICE J.M.PANCHAL

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

HIGH COURT OF GUJARAT

Versus

KALAJI SHAKRAJI THAKORE

Appearance:

MR SP HASURKAR for Appellant

CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI

and

MR.JUSTICE J.M.PANCHAL

Date of decision: 06/07/2000

C.A.V.JUDGMENT : (Per : Panchal,J.)

By means of filing this appeal under Clause 15 of the Letters Patent, the appellant has questioned legality of order dated September 9, 1997 passed by the learned Single Judge, in Special Civil Application No. 7660/95, by which the learned Single Judge has directed three Private Secretaries attached to his Court to take out only one copy of orders and judgments dictated.

2. In Special Civil Application No. 7660/95, the petitioners have questioned legality of orders relating to conversion of the land belonging to them to old tenure. Other consequential reliefs are also sought in the said petition, but it is not necessary to refer to them in detail in this appeal. During the course of hearing of the said petition, it was noticed by the learned Single Judge that six copies of order of adjournment or an order of keeping the matter C.A.V. or even a formal order of giving some directions to the respondents or granting time for reply etc. were required to be taken out. The learned Single Judge was informed by his Private Secretary that he was taking out extra copies in view of the order issued by Mr. G.H.Barot. The learned Single Judge was of the view that taking out six copies was wastage of money as well as stationery and, therefore, the learned Single Judge by his order dated August 4, 1997 directed the Registrar to justify the directions given to the Private Secretaries to take out three or six copies of orders/judgments etc. before the specified date, in the said order. Accordingly, the then Registrar of the High Court remained present in person and after taking into consideration his explanation, the learned Single Judge directed the three Private Secretaries attached to his Court to take out only one copy of the orders/judgments dictated, giving rise to the present appeal.

3. The learned counsel for the appellant submitted that the direction which was issued by Mr.G.H.Barot on the instructions of the then Hon'ble Acting Chief Justice being purely of administrative nature, should not have been judicially reviewed by the learned Single Judge while exercising suo motu powers. The learned Counsel for the appellant has filed an affidavit-in-reply of Mr. G.H.Barot justifying issuance of the Circular dated May 22, 1997 instructing all the Private Secretaries of the Judges of this Court to take out six copies of orders/judgments and on the basis of the said justification, the learned counsel pleaded to set aside

the direction issued by the learned Single Judge, which is impugned in the appeal.

4. We have heard the learned counsel for the appellant and taken into consideration the views expressed by the learned Single Judge in order dated August 4, 1997, which was passed in Special Civil Application No.7660/95 as well as justification for Circular dated May 22, 1997 putforth by Mr. G.H.Barot in the affidavit-in-reply. Mr. G.H.Barot has produced submission dated May 15, 1997 made by the then Joint Registrar to the then Hon'ble Acting Chief Justice along with his affidavit-in-reply. The said submission indicates that at the relevant time, thousands of matters were pending for issuing writs and more than 16000 to 17000 applications for certified copies were also pending. The grievance raised in the said submission was that staff strength in the decree department was not sufficient and many staff members were withdrawn from the said department and sent either to computer centre or as the Court Assistants. What was highlighted in the said submission was that Private Secretaries were taking out hardly three copies of orders/judgments out of which, two copies were sent to the department and, therefore, it was suggested that Private Secretaries should be instructed to take out six copies of orders/ judgments, which would help the personnel manning the decree department to dispose of pending applications for certified copies immediately. It was further mentioned in the said submission that terminals and printers were provided to all the Private Secretaries and as all the judgments and orders, except small orders, are entered into computer, it would not be difficult for the Private Secretaries to take out more copies. It was also stressed in the said submission that if five copies are sent to decree department, then those copies can be authenticated by the officer concerned and can immediately be supplied to the parties concerned. The then Hon'ble Acting Chief Justice considered the written submission made by the then Joint Registrar and directed Mr. G.H.Barot to issue Circular instructing all the Private Secretaries of the Judges of this Court to take out atleast six copies of orders and judgments and send atleast five copies of the orders and judgments to the concerned department. Accordingly, the Circular dated May 22, 1997 was issued under the signature of Mr. G.H.Barot, who is at present discharging duties as Assistant Secretary to the Hon'ble Chief Justice of this Court. The contents of the submission dated May 15, 1997 placed before the then Hon'ble Acting Chief Justice and Circular dated May 22, 1997 issued by Mr. G.H.Barot under the instructions of the then Acting

Chief Justice, would indicate that in order to overcome the difficulties faced by the decree department and litigants, instructions were issued to the Private Secretaries to take out six copies of the orders and judgments passed by the learned Judges of the High Court. Having given anxious thought to the matter, we are of the opinion that this is a policy decision taken by the then Acting Chief Justice on administrative side and, therefore, exercise of suo-motu judicial jurisdiction to probe into the matter which is purely of administrative nature relating to the High Court, is not justifiable. In *Shri Kumar Padma Prasad v. Union of India and others*, AIR 1992 SC 1213, two Hon'ble Judges of Gauhati High Court suo-motu registering a public interest litigation, issued show-cause notice to Secretary, Law and Judiciary of State Government, as to why investigation into the matter of purchase of law journals, stationeries etc. for High Court Bench should not be ordered. That was challenged before the Supreme Court. The Supreme Court while disapproving the action of the two Hon'ble Judges of probing into a matter which was purely of administrative nature, has held as under:

"9. We fail to appreciate the action of the two learned Judges of the High Court in assuming jurisdiction on the judicial side to probe into a matter which was purely of administrative nature and was exclusively within the purview of the Chief Justice. Whether in the matter of purchase of books for the High Court, Srivastava acted honestly or dishonestly was not a matter for the learned Judges to probe by straining their judicial powers. Mr.K.K.Venugopal, learned Senior Advocate appearing for Srivastava contended that Srivastava's name for appointment as a Judge was recommended in August, 1990 and by November, 1990 the process of consultation was at final stages. According to him, the order dated November 20, 1990 was passed by the learned Judges with a view to stall his appointment as a Judge. Be that as it may, we are of the view that there was no justifiable reason for the learned Judges to have adopted the course they did."

In view of the above quoted pertinent observations made by the Supreme Court, we are of the considered opinion that the learned Single Judge was not justified in exercising suo-motu judicial jurisdiction to

probe into the matter purely of administrative nature relating to High Court. The impugned direction is, therefore, liable to be set aside. However, we feel that the instructions issued to all the Private Secretaries of the Judges of this Court to take out atleast six copies of orders and judgments deserves to be reviewed in the light of state of affairs existing in the Decree Department as on today as well as observations made by the learned Single Judge in order dated August 4, 1997, which was passed in Special Civil Application No.7660/95. We, therefore, deem it fit to direct the appellant to reconsider the matter and obtain appropriate directions in this regard after making submission before the competent authority. This exercise shall be done by the appellant as early as possible and without any avoidable delay.

Subject to directions contained hereinabove, the appeal succeeds. Order dated September 9, 1997 rendered by the learned Single Judge, in Special Civil Application No. 7660/95 directing three Private Secretaries attached to his Court to take out only one copy of judgments and orders is set aside and quashed. The appeal is accordingly allowed, with no order as to costs.

(D.M.Dharmadhikari,C.J.)

(J.M.Panchal, J.)

(patel)